Canada Mortgage and Housing Corporation

Société canadienne d'hypothèques et de logement

CMHC Helping to house Canadians

AN ASSESSMENT OF PROVINCIAL LEGISLATION, BUILDING REGULATIONS AND BY-LAWS AS A BARRIER TO HOUSING PEOPLE WITH DISABILITIES

An Assessment of Provincial Legislation, Building Regulations and By-laws as a Barrier to Housing People with Disabilities

Funded by
External Research Program
Canada Mortgage and Housing Corporation

Conducted by
HSP Humanité Services Planning Ltd.
St. Albert, Alberta

October, 1988

90-01626/

This project was carried out with the assistance of a grant from Canada Mortgage and Housing Corporation under the terms of the External Research Program. The views expressed are those of the author and do not represent the official views of the Corporation.

Table of Contents

ABSTRACT

EXECUTIVE SUMMARY

	Page
1.0 INTRODUCTION	1
1.1 Background	1
1.2 Research Question and Objectives	1
1.3 Research Methodology	1
2.0 LITERATURE REVIEW	3
2.1 Normalization	3
2.2 Attitudinal Barriers	4
2.3 Zoning By-Laws	6
2.4 Canadian Legal Challenges	7
3.0 MUNICIPAL LAND USE BY-LAWS IN ALBERTA	10
4.0 KEY INFORMANT SURVEY	16
4.1 Survey Results	16
4.2 Survey Comments	18
4.2.1 Rehabilitation Community	18
4.2.2 Planning Community	21
4.3 Survey Interpretation	24
5.0 DISCUSSION	30
6.0 CONCLUSION	33
7.0 RECOMMENDATIONS	35

REFERENCES

APPENDICES

Appendix One: Copy of the Questionnaire
Appendix Two: Key Informants
Appendix Three: Letter from the City of Edmonton

ABSTRACT

This study was conducted in order to answer the following question: To what extent do the Building Code, other provincial government regulations and legislation, and municipal by-laws impede discharge from an institution to a normal residential community setting for people with disabilities in Alberta? Research was conducted in three areas: a review of the current literature, an analysis of a sample of Alberta Land Use By-Laws, and a survey of key informants.

The literature review provides a contemporary review of housing for disabled persons and covers the areas of rehabilitation theory, attitudinal barriers to community living, zoning by-laws, and recent legal challenges in Canada. The literature suggests that, of the various types of regulations and legislation, municipal zoning by-laws provide the greatest impediment to movement of persons with disabilities into residential neighbourhoods. Analysis of zoning by-laws for twelve Alberta municipalities confirmed that they do impede the location of homes for disabled persons within residential areas. Specific discriminatory provisions within the by-laws are identified in this study.

The literature also indicates that attitudinal barriers are the cause of discriminatory legislation and legal challenges. The Key Informant Survey conducted for this study supported this finding. The survey sought to elicit the opinions and attitudes of both the Rehabilitation and Planning communities regarding residential occupancy by persons with disabilities. Predictably, the members of the Rehabilitation community showed much stronger support for the right of disabled people to live wherever they choose, without challenge and interference from neighbours and bureaucratic processes.

Three major recommendations are offered in this report: amendment of municipal by-laws so that discriminatory provisions are deleted, education of municipal planners, and education of the general public so that they come to understand and accept into their midst persons with all types of disabilities.

EXECUTIVE SUMMARY

The principle of normalization was introduced into Canada in the late 1960's and has since won wide-spread acceptance. This principle, which has provided the rational for deinstitutionalization and the creation of community-based services, has been the major philosophical impetus for movement of persons with disabilities into the community. Although professionals in the human services sector consider the community to be the most desirable place for their clients to live, the fact remains that barriers exist which prevent persons who are physically disabled, mentally handicapped, or mentally ill from residing in a residential neighbourhood. This observation became the basis for the research question: To what extent do the Building Code, other provincial government regulations and legislation, and municipal by-laws impede discharge from an institution to a normal residential community setting for people with disabilities in Alberta?

A review of the current literature revealed that, of the various types of regulations and legislation, municipal zoning by-laws provide the greatest impediment to movement of persons with disabilities into the community. These by-laws set the stage for legal challenges, which usually examine whether or not the municipal by-laws permit establishment of a "group home" on a particular site within the community. Such debate involves consideration of a number of issues, as is evident from the ways in which zoning by-laws may be interpreted to exclude group homes from residential use (Marshall, 1984):

- Some by-laws specifically exclude group homes for persons who are physically and/or mentally disabled from residential districts.
- Residential areas are limited to *single-family dwellings*, and either the term *family* remains undefined or the number of unrelated persons who may reside together as a family is strictly limited.
- Conditions set out in zoning by-laws may make group homes, even in Permitted Use areas unfeasible (e.g. distance requirements between two group homes may be unreasonable).

A review of recent Canadian legal challenges indicated that their outcomes have been generally positive, with the judiciary favourably disposed towards upholding the rights of persons with disabilities to live in residential neighbourhoods. More encouraging, however, would be a situation in which such confrontation could be averted by revisions to municipal by-laws.

The fact that Alberta zoning by-laws are candidates for revision was substantiated by an analysis of Land-Use By-Laws in twelve Alberta municipalities. Of these, only Edmonton's zoning by-law permits establishment of at least one type of community living facility (Limited Group Home) in all zones (except those designated for Residential Mixed Use and Commercial Mixed Use). All other communities surveyed consign group living arrangements for disabled persons to Discretionary Use areas. The municipal by-law review led to the conclusion that, on the whole, Alberta municipalities do not welcome group homes for disabled persons in residential neighbourhoods, primarily for the following reasons:

- Group care facilities generally do not come within Permitted Use categories.
- Such facilities (except for Limited Group Homes in Edmonton) are classified as Discretionary Use in all zoning areas. Thus, any application to establish a group care facility within a residential area must be approved by bureaucratic processes and is open to challenge by potential neighbours.
- Definitions of *family* and *household* are rarely provided within the by-laws. This

omission subjects these concepts to challenge and decision by municipal authorities and, perhaps, the courts.

- Sometimes group care facilities are zoned for commercial areas on a Discretionary Use basis. Placing group homes into commercial areas in part defeats the purpose of deinstitutionalization and normalization.

While municipal zoning by-laws might pose the most immediate and tangible barrier to housing persons with disabilities in the community, ultimately public attitudes are the reason for discriminatory legislation and legal battles. Four basic arguments and fears are commonly associated with community opposition to group residential facilities (Sigelman et al., 1979): crime rates will soar, property values will decline, the neighbourhood will change, and group home residents and their neighbours will dislike each other. Research has refuted each of these arguments.

The Key Informant Survey conducted for this study sought to elicit the opinions and attitudes of both the Rehabilitation and Planning Communities regarding residential occupancy by persons with disabilities. Both groups generally supported the desirability of community living, and thus the principle of normalization in this respect. Predictably, however, the Rehabilitation Community provided a stronger expression of support for this principle. For example, on the subject of defining *family,* planners expressed adherence to existing definitions in municipal by-laws, more so than did members of the Rehabilitation Community. While both groups responded favourably to the need for additional safety features for persons with disabilities, members of the Rehabilitation Community, in keeping with the dignity of risk principle, were less inclined than planners to provide special protection. Perhaps most significant was the Rehabilitation Community's strong opposition to the suggestion that disabled persons should seek approval of neighbours and the municipality before moving into a residential neighbourhood. Planners generally deferred to zoning requirements and regulations.

The survey of key informants, like the review of zoning by-laws for Alberta municipalities, supports the findings revealed in the literature, that persons with disabilities are still not unconditionally welcome in "normal" residential neighbourhoods. To rectify this situation, the following recommendations are offered:

- Municipal zoning by-laws must be amended so that the identified discriminatory provisions are deleted.

- Municipal planners must be educated on the principles of serving people with disabilities so that they can act in a positive way, rather than perpetuate discriminatory by-laws.

- The general public must be educated so that they come to understand and accept into their midst persons with disabilities.

Implementation of these recommendations will hopefully give persons with disabilities the unchallenged right to choose accommodation in residential neighbourhoods.

1.0 INTRODUCTION

1.1 Background

The movement of people with disabling conditions from institutions to community-based settings has been a stated and much desired objective for over two decades. The placement of such persons, be they physically disabled, mentally handicapped or mentally ill, has been slow in its realization but nevertheless is now considered the most desired place to live by professionals in the human services sector and in most cases the individual clients.

Even though living as an ordinary citizen in the community is a desired state, many barriers exist which preclude this happening. This paper provides information about one of these barriers, namely zoning by-laws, and reports how they impede the full integration and recognition of people with disabilities into the mainstream of the Alberta community.

1.2 Research Question and Objectives

Research Question: To what extent do the Building Code, other provincial government regulations and legislation, and municipal bylaws impede discharge from an institution to a normal residential community setting for people with disabilities in Alberta?

Objectives:

- To determine if Provincial legislation, zoning bylaws and building regulations subjectively discriminate against people with disabilities.
- To determine to what extent current rehabilitation theory supports the special residential considerations that regulations and bylaws demand.
- To determine the extent to which current rehabilitation practice can be conducted in an unrestricted residential setting.
- To assess the extent to which the building bylaws and regulations create obstacles to the community placement of people from institutions.
- To determine the extent of such obstacles, and on what basis, and under what circumstances they could be waivered.
- To determine to what greater and simpler extent a home could be provided to persons with disabilities if no regulatory or legal restrictions were placed on their community living options.

1.3 Research Methodology

The research was conducted in three distinct areas, namely:

- Review of current literature
- Analysis of a sample of Land Use By-Laws
- Key Informant Survey

The literature review, as reported in Chapter 2, provides a contemporary view of housing for disabled persons and covers the areas of rehabilitation theory (and practice), attitudes, by-laws and recent legal challenges in Canada.

The analysis of municipal by-laws in Alberta featured the review of by-laws from a sample of municipalities which are in urban and rural settings, and in the north, central and south of Alberta and included some municipalities that have institutions caring for disabled people in their community. The communities included in the sample are:

- Edmonton
- Calgary
- Lethbridge
- Red Deer
- Fort McMurray
- St. Albert
- Bonnyville
- Ponoka

- Bow Island
- Taber
- High Prairie
- Hinton

Chapter 3 provides the results of that review and analysis.

The final area of research was a survey of key informants, representing two distinct groups, namely people working in the rehabilitation community, and people working in the planning community. The results are reported in Chapter 4.

A list of key informants was drawn up based on people or organizations that are known and recognized in the area of rehabilitation. Similarly, the planners were chosen, but the municipalities that had been involved in the by-laws review were also included.

An initial personal interview was held with three key informants known for their knowledge and understanding of the research issue. The findings from these interviews provided information regarding deinstitutionalization and the option of persons with disabilities to live in the community of their choice, and where the problems with regulations and legislation occurred. Equally important, it allowed an early identification of the areas in which the problems *did not* occur. From these interviews a number of survey items were identified and formed the basis of the survey instrument. Appendix One provides the final survey instrument used for the key informants. Table One provides the number of respondents for each group.

Appendix Two provides the list of key informants who were contacted.

Many key informants also provided comments relevant to the questions posed to them. These therefore are also reported in Chapter Four.

TABLE ONE
Number of Respondents and Response Rates

Respondent Group	Number of Surveys Mailed	Number of Surveys Returned	Response Rate
Rehabilitation Community	34	24	70.6%
Planning Community	58	41	70.7%
TOTALS	**92**	**65**	**70.6%**

2.0 LITERATURE REVIEW

The body of literature on housing for disabled persons is large and covers a number of distinct areas. As indicated by Gunn (1982), the following major themes emerge: normalization, necessity for a continuum of housing services, the nature of housing provision (Is it adequate and accessible?), appropriate support services, and attitudinal barriers to the normalization process. One very important theme not listed, but certainly prominent in the literature, is the effect that legislation and regulations have on persons with disabilities who desire to live in a normal residential community setting. Included are provincial legislation and policies, building regulations, and zoning by-laws.

Of these, the issue of zoning has been particularly addressed in the literature because it has been the major force relegating against the establishment of group homes in residential neighbourhoods. The literature has particularly examined the implicatons of a number of American legal cases which have challenged zoning by-laws and which have been precedential in opening residential areas to group homes. The body of literature relating to zoning by-laws and court challenges within Canada is significantly smaller. Because of the differences in legal systems and constitutions, Canadians cannot draw conclusions from precendent-setting American legal decisions. Nevertheless, the intent of zoning by-laws is the same in both countries, and thus the American experience does have something to offer.

The subject of zoning by-laws and how they affect residential options for persons with disabilities is closely related to two other themes important in the housing literature, normalization and public attitudes to integration of persons with disabilities. Integration has two aspects, physical and social: we are particularly concerned with the physical integration of the disabled person's residence within the community. Integration is very much a part of the normalization concept, which stipulates that persons with disabilities are entitled to the most normal lifestyle possible. While the general public may support this principle in theory, the literature confirms that residents very often express objection to having residences for disabled persons in their neighbourhoods. Such residences are usually group homes, and thus residents use zoning by-laws as justification for excluding community living arrangements from residential areas. Because by-laws are established by legislation, the stage is set for intervention of the courts and legal system.

Various terms are used in the literature to refer to community living arrangements, the most common being *group home*. The Alberta municipalities surveyed in this study variously refer to *group home*, *limited group home*, *special care facilities*, *family care facilities*, and *group care facilities*. These types of residential options are differentiated on a local basis in the land use by-laws of each municipality by type and maximum number of residents accommodated; however, no set definitions apply on a province-wide basis. In this review, no distinction is made between terms, which are used interchangeably and generically in reference to "small, community-based residences in which there is some element of supervision or express program objectives aimed at meeting residents' special needs" (James, 1984).

2.1 Normalization

Normalization has been the major philosophical impetus for the movement of persons with disabilities to the community. It has provided the rationale for deinstitutionalization and the creation of community-based services. The concept was first propsed by Nirje (1969) and Bank-Mikkelson (1969), but is generally associated with Wolfensberger, who has written extensively about this principle. Castellani (1987) suggests that the definition by Lakin and Bruininks (1985) captures the essential factors of normalization: "This standard [normalization] dictates that the residential, educational,

employment, and social and recreational conditions of the individual must be close to the cultural norm for a person of that age as the extent of the individual's disability reasonably allows."

Castellani (1987) states that the remarkable aspect of the concept is that, despite its relative newness, it has won almost immediate and widespread acceptance. The dark side of this statement, however, is that deinstitutionalization, particularly in the United States where federal funding and legislation play a significant role in the provision of human services, has also caused considerable opposition: "...it is naive to believe that changes of that magnitude are brought about without a great deal of opposition and consternation. Much of that has been expressed by neighbors of community-based agencies, local government officials, established social sevice agencies, and others in communities who have been closest to the changes" (Castellani ,1987). Referring to the establishment of community residences in Ontario, Turner (1984) states that the transition from institution to residential living has created the zoning problems associated with community residences.

2.2 Attitudinal Barriers

While the American and Canadian experiences are not identical, public attitudes are similar and can be discerned from U.S. studies. For example, national surveys of existing community residential facilities show that approximately one-third experienced opposition from community members at the time of their establishment (Baker, Seltzer and Seltzer, 1974; O'Connor, 1976; Piasecki, 1975; quoted by Sigelman et al., 1979). Rutman (1976) estimated that at least 50% of all proposed community-based programs for persons with mental disabilities are prevented by community opposition (quoted by Sigelman et al., 1979). In fact, the mentally ill are the least accepted of the disabled populations: "Few, if any, communities look forward to the placement of a residential facility for the mentally ill in their midst" (Baron and Piasecki, 1981). This statement coincides with findings by Baker et al. (1977) that "opposition to community residences on the part of their surrounding communities typically is expressed as resistance to the particular location chosen, not to the concept of community residences per sé." Their survey of community residences for mentally retarded adults shows that complaining neighbours (24%) and zoning disputes (12%) are the most frequent source of community opposition. Baron and Piasecki (1981) note that public opposition is mounting and becoming increasingly effective.

Sigelman et al. (1979) discuss the four most common fears and arguments associated with community opposition to group residential facilities:

- **"Crime Rates Will Soar"**: This argument is applied to persons with mental or behavioral disabilities.The objection revolves around the unfounded fear that persons with mental illness are incurable and unpredictable and, therefore, dangerous.

Baron and Piasecki (1981) cite results of a survey in Philadelphia (1980) which showed that "belief in either the incurability or the dangerousness of the mentally ill was a powerful predictor of opposition to community residences." They state that such beliefs are highly correlated with requests for zoning laws which would deny residential options to persons formerly hospitalized for mental disabilities: "It is the community's growing need for guarantees of safety, in spite of the fact that the threat is minimal, that produces the classic compromise position: any place but here" (Baron and Piasecki, 1981). The authors cite research which shows that crime rates are not, in fact, higher in neighbourhoods with residential facilities for persons with handicaps.

- **"Property Values Will Decline"**: Residents argue that their property values will decline for two reasons: buyers may be reluctant to

live near persons with disabilities (particularly those with mental disability), and property occupied by the disabled residents and staff may deteriorate.

Research, however, shows that contrary to decline, property values may actually increase because of superior care given to buildings and grounds. Ryan and Coyne (1985) cite several studies, including their own, which examined measures of property values and found no evidence that neighbourhood values are adversely affected by the presence of a group home. For example, a study by Dolan and Wolpert (1982) of New York State group homes for persons with mental disabilities yielded the following observations:

1. *proximity of neighboring properties to a group home does not significantly affect their market values in the short or long term;*

2. *establishment of the group homes was not associated with a higher degree of neighboring property turnover in the short or long term;*

3. *the group homes are not very conspicuous neighbors; those with fewer residents (eight or fewer) are generally less conspicuous than larger homes, although some of the largest blend very well into their surroundings; (conspicuousness is measured by the condition and design of the structure, design accommodations, condition of the yard, visibility of staff and residents and parking arrangements);*

4. *the group homes are generally well maintained and on a par consistent with other homes on the same block; and*

5. *neighborhoods with established group homes have not been targeted for additional homes for retarded people - a "fair share" system has been maintained.*

Boeckh, Dear and Taylor (1980) state that if such a facility were viewed negatively, it could cause nearby residents to move away, thereby severely depressing the resale values of properties in its vicinity. In their study, these authors compared property value data for markets in the vicinity of five mental health facilities to control areas in Toronto. They too found that property values were virtually identical in both groups, and concluded that the introduction of a mental health facility has little effect on neighbourhood property values.

- **"The Neighbourhood will Never be the Same"**: Sigelman et al. (1979) state that "the concept of neighborhood integrity has been pivotal in court cases centering on zoning and community residential alternatives." However, evidence shows that neighbourhood activity patterns do not appear to change after community facilities open. Contacts between residents and neighours are few, and when they occur they are rarely negative in nature.

- **"Familiarity Breeds Contempt"**: Research shows that, instead of disliking each other, residents of group care facilities and their neighbours grow fonder of each other over time. Neighbours, therefore, do become more favourably disposed to community residences with experience. In their study of community residences, on average five years after their opening, Baker et al. (1977) found that very few communities harboured negative attitudes: "We can hypothesize that familiarity with the program and its residents, or at least the realization that the community residence is indeed here with no disastrous consequences, improves the relationship between a community residence and its neighbours."

Baron and Piasecki (1981) believe that communities must be prepared and educated for community residences, particularly with regard to those housing people who have mental and behavioral disabilities. They note that "most

communities have relied on their prejudices, sensationalized news accounts, and neighbourhood gossip in shaping their responses to community residences."

However, Sigelman et al. (1979) advise otherwise. Their previous research has shown that community education campaigns in advance of a facility's opening may actually incite community protest. Baker et al. (1977) concur. Their study found a slight, but statistically significant, positive relationship between preparation and opposition. They advise that a new community residence maintain a low profle on entering a neighbourhood so as not to spark opposition. Of course, this is only possible if the residence is permitted under the zoning ordinance and does not require consideration by neighbours or the municipal authority.

2.3 Zoning By-laws

Public attitudes will determine whether a residential neighbourhood or even a whole community will be hospitable and receptive or will erect zoning barriers to a community residence. Anderson (1976) defines zoning, the system for land-use controls, as "the division of the entire territory of a municipality into districts (the zoning map) and the imposition of restrictions upon land use in each district" (quoted by Kressel, 1981). The concept is based upon the belief that privately-owned land cannot be used in a way which will interfere with "the use and enjoyment" of neighbouring property.

Legal difficulties generally revolve around whether or not municipal by-laws allow establishment of a group home on a particular site within a community (James, 1984). Marshall (1984) refers to three main types of zoning by-laws which may be interpreted to exclude group homes from residential use:

- Some by-laws specifically exclude group homes for persons who are physically and/or mentally disabled from residential districts.
- Although group homes may not be mentioned in the land use by-law, residential areas are limited to *single-family dwellings*. Either the term *family* remains undefined, in which case it is not clear whether group homes are allowed in the area; or the number of unrelated persons who can reside together as a family is strictly limited, in which case some group homes would be excluded.
- Conditions set out in zoning by-laws may make even group homes allowed in certain residential areas unfeasible. For example, unreasonable distance requirements between two group homes may be set forth.

Kressel (1981) concludes that group care facilities are expressly permitted only in a few residential areas which are, however, the appropriate places for meeting the objectives of normalization.

Writing specifically about residential facilities for people with mental illness, Baron and Piasecki (1981) state that "the battle lines today often seem too neatly drawn: the mentally ill and their advocates (professionals and civil libertarians), largely on one side, civic associations and zoning boards generally on the other." The authors indicate that exclusionary zoning laws are the most effective tools available to communities to stop residential facilities from being established. On the other hand, such laws and their accompanying definitions invite proponents of community care to challenge and redefine traditional definitions of family and household.

While zoning discrimination against group homes fought in the courts may serve to educate judges, lawyers, and public officials as to the needs of persons with disabilities (Knight, 1980), such battles incur severe costs, ranging from start-up delays to time lost searching for other sites (Baron and Piasecki, 1981). Monetary costs can also be high, and the by-law amendment process, which may be required to

establish a group home, can be "long, tedious and very contentious" (James, 1984). James also points out that the very process of by-law amendment projects the message that a group home is not an appropriate use for a particular site within the community.

When such court challenges are defeated, the costs are even greater, because the goal of integration is defeated: "Every zoning battle lost in a middle-class or upper-class community not only intensifies the crowding of such facilities into less desirable (and thus more vulnerable) communities where crime is high and average income is low, but also forces facilities to rely upon older and structurally less adequate housing" (Baron and Piasecki, 1981).

Sales et al. (1982) indicate that exclusionary zoning, in fact, completes the circle by leading deinstitutionalized persons back to an institutional setting. Group homes excluded from the residential neighbourhoods of a municipality only have recourse to commercial or institutional zones designated for hospitals and nursing homes. As group homes are concentrated, or ghettoized, in these areas, the aims of normalization are negated and a new kind of institutionalization emerges. Similarly, as a large number of municipalities formulate restrictive zoning by-laws, those with less stringent regulations will attract a large proportion of residential care facilities. The Social Planning and Research Council of Hamilton and District (1978) states that "this type of concentration is unhealthy for both the neighborhoods and residents of residential-care facilities. Good planning should be undertaken which facilitates the formulation of zoning which equalizes distribution of residential care facilities and which promotes the health of both facilities and communities."

Kressel (1981) advocates for zoning reform to advance the objectives of normalization, because land use controls exert a social impact by excluding certain groups of people from "normal" residential living. Referring to Ontario, Marshall (1984) explains that, as a result of some legal cases, group homes have been allowed in residential neighbourhoods on the basis that certain types of restrictive by-laws are "unreasonable" and therefore invalid. Knight (1980) observes that zoning by-laws which exclude group care residential facilties are a detriment to society as a whole because they prevent potentially productive citizens from contributing to their communities. Knight concedes that there is no single answer to "knocking down barriers." Nevertheless, the literature repeatedly stresses the need for education directed not only at the general public, but at politicians, municipal planners, educators, the media, and the judiciary. Although zoning reform can only be achieved through a political and legislative process, ultimately public attitudes will determine the success of such a process.

2.4 Canadian Legal Challenges

The housing literature abounds with references to American legal cases concerned with the establishment of group homes in residential neighbourhoods. U.S. federal law paves the way for legal action because it embodies treatment and normalization goals. Canada, too, is bound to see more recourse to the legal system as more persons with disabilities appeal to the provisions of the Constitution: "The potential and grounds for litigation in cases where there is discrimination against group homes for persons who are handicapped has broadened considerably with ... the enactment of the Canadian Charter of Rights and Freedoms" (Marshall, 1984). Marshall points out that "rights in the Charter expressly take precedence over all federal or provincial laws, regulations and administrative acts [s.52 (1)]." However, Provincial or Federal authority prevails over municipal, the level at which zoning bylaws are determined (The Social Planning and Research Council of Hamilton and District, 1978).

For example, a recent judgement (January,

1988) by the New Brunswick Court of Queen's Bench refers to section 15(1) of the Charter in support of the decision that a group care facility was indeed properly situated within a residential neighbourhood:

15(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or other origin, colour, religion, sex, age or mental or physical disability.

The occupants in question were three mentally handicapped young adults living in a modern bungalow-type residence in an area zoned for one-family residential use. In 1985, the town of Woodstock claimed that the use of the house contravened the town's zoning by-law: the residence was operated as a "Community Placement Residential Facility" providing care services to the occupants. However, Judge J. Dickson concluded that "the fact that the dwelling is used exclusively for residential purposes is not, in my view, detracted from by the circumstance that the occupants, because of their handicaps, are reliant on outside support in their care and even to a large extent in their supervision and in the decision-making process."

In this case, zoning by-laws were used by neighbours and municipal officials to discriminate against the mentally handicapped young occupants. A number of residents initially protested the proposed use of the property to the municipal authority. After the Town sought the opinion of the Department of Municipal Affairs, an administrator of the Community Planning Branch felt that the property would need to be re-zoned. This statement was followed by the filing of a petition, signed by a number of residents in the area, with the Town opposing any re-zoning.

The court, however, found that the use of the property as a residence and home for the three occupants was a permitted use pursuant to the Town's zoning by-law. Recent changes to public policy in New Brunswick seem to have been an important factor affecting the decision:

Within the past several years public policy in respect of the care of mentally-handicapped persons has changed fundamentally. Whereas such persons formerly were normally confined to special hospitals or institutions, frequently far-removed from their homes and customary surrondings, the emphasis more recently has been on what has been described as the 'development of community living options for such persons, including the establishment and administration of group homes and apartments, the establishment of special programs and sevices for individuals identified as requiring special care, and relocation of institutionalized individuals into local facilities and programs'. (Dominion Reports Service. Summaries of Canadian Court Decisions . Woodstock (Town) v. Community Residential Living Board - Woodstock Inc.)

A number of similar Canadian cases were cited in this decision, and all but one concluded in favour of the group care facilities being challenged. Definitions of *family* are crucial to decisions as to whether or not such facilities are in keeping with the residential character of a neighbourhood. In fact, a Court of Appeal set aside an acquittal and entered a conviction against R.V. Brown Camps Ltd. (1969) in Ontario for using a single family detached dwelling as a commercial home for the treatment of children. Although a number of circumstances affected the decision, the fact that the occupants were not a *family* as defined in the by-law militated against the respondent. The occupants were labelled *inmates* who did not form a single housekeeping unit because they had no relationships with each other and did not choose to live on the premises.

In 1972, however, the City of Barrie was unsuccessful in its bid for an injunction to prevent the defendant (Brown Camps Residential and Day Schools) from allegedly contravening the zoning by-law. Of concern were residential schools for emotionally disturbed children, wherein a maximum of five children resided with their teachers. The

relevant by-law defined *family*, but did not require a housekeeping unit to constitute a family; therefore, each house was interpreted by the court to be a one-family dwelling, in accordance with the zoning by-law.

This decision also hinged on the fact that the residential schools were not a "serious inconvenience or detriment to the neighbours." Similar reasoning led to a decision, again in favour of the defendant, in the case of the City of Charlottetown versus the Charlottetown Association for Residential Services (1979). The judge noted that the zoning by-law was "obviously designed to protect the residential character of the neighbourhood" and concluded that the proposed residence for "six or seven mild to moderately retarded young adults" did not violate the intent of the by-law. In this case, the city's zoning by-law did not define *family* or *group home*, but did ascribe such a facility to another use-district. The judge, therefore, adopted the meaning of *family* as "a collective body of persons who live in one house under one head or management" and rejected the plaintiff's contention that the residence was a group home properly situated in another area.

The generally positive outcomes of these legal cases suggest that the judiciary is favourably disposed toward upholding the rights of persons with disabilities to live in residential neighbourhoods. The Constitution's guarantee that every individual has "the right to the equal protection and equal benefit of the law without discrimination" [s.15(1)] supports an optimistic outlook for disabled persons challenged by court battles. However, the literature intimates that in an ideal future, persons with disabilities should not need to defend their right to live in a "normal" residential neighbourhood. Public attitudes should be such that the normalization principle is embraced in practice, and not just in theory. Zoning by-laws, as well as building codes, fire safety regulations and funding provisions must not dictate where particular groups of persons may or may not reside.

3.0 MUNICIPAL LAND USE BY-LAWS IN ALBERTA

Land use by-laws were reviewed for twelve Alberta municipalities to determine the types of regulations and definitions which might prevent persons with disabilities from living in the community. An individual who lives with his or her family will not be affected by the by-laws, unless structural changes are required for the residence. Zoning does become an issue, however, when a number of unrelated persons decide to live together. When household or family are defined (rarely), the number of unrelated persons who may reside together is usually limited. When these terms are not defined in the land use by-laws, the authorities must decide if a group of unrelated persons constitutes a family or household which may reside in a residential area. Most municipalities do have provision for community living arrangements for persons requiring care or rehabilitation, but these facilities are not private residences as such, since they are usually licensed or certified by a public authority. The types of group living facilities and the regulations which affect them within the areas surveyed are summarized in Chart One.

Various forms of community living for persons with disabilities are defined in Alberta communities' land use by-laws. While these residences are most often termed *group homes*, they are also referred to as *special care facilities*, *family care facilities*, and *group care facilities*. Generally, the maximum number of persons who may reside in these facilities is specified by each municipality, and residents must require some form of care, service, or supervision. Thus, these facilities usually accommodate all age groups. Residents of group homes are variously described as disabled persons, foster children, "persons with physical, mental, social or behavioral problems," persons with developmental disabilities, and the aged. Usually, the number of staff persons who may also reside within such a facility is not defined in the by-laws.

Notably, of the twelve Alberta communities surveyed, only Edmonton's zoning by-law permits establishment of at least one type of community living facility. Limited Group Homes (six or fewer residents, plus staff) are permitted in all zones except those designated for Residential Mixed Use and Commercial Mixed Use. However, Group Homes (seven or more residents, plus staff) are assigned to areas zoned as Discretionary Use. All other communities surveyed relegate community living arrangements for disabled persons to Discretionary Use areas.

Under Permitted Use, an application for a development permit is usually approved if the proposed use of the site is in accordance with what is allowed within a particular land use district. The proposed development must conform in every way to the provisions of the land use by-law. Development within Discretionary Use areas, however, is subject to an approving authority's decision. In Alberta, such an authority is usually the Development Officer acting on behalf of the Municipal Planning Commission.

While group homes are not unequivocally allowed in residential areas and their establishment is subject to permission by municipal authority, they are sometimes allowed in commercial districts under the Discretionary Use category. The Edmonton by-law, for example, stipulates that the residential character of a group home is of primary importance, yet group homes may, with special authorization, be established in commercial districts. While Fort McMurray limits group homes to residential areas (but under the Discretionary Use category), this city classifies Social Care Facilities under Discretionary Use in commercial districts. These facilties "may provide resident or over night accommodation" for "the care, supervision or rehabilitation of individuals who are physically, mentally or financially disabled." Of the communities surveyed, only Edmonton and Fort McMurray make specific mention of group care facilities within commercial districts.

The definition of *family* is one means by which communities are able to keep group facilities out of residential areas. However, by not defining the term, communities also avoid specifically allowing unrelated persons to live together as a family unit. With the exception of Fort MacMurray and Taber, the Alberta communities surveyed do not define *family*. In Fort McMurray, persons who are related by blood, marriage or adoption are defined as being a family if they are all living together as a single housekeeping unit and using common cooking facilities. In Taber, *family* means "one or more persons occupying a dwelling unit as a single housekeeping unit."

Similar in concept to *family*, the term *household* is also not widely defined. For example, Red Deer's definition of a household is almost identical to Fort McMurray's definition of a family, except that in Red Deer a household also constitutes "a group of five unrelated persons." In Fort McMurray, a family is a household, which may also be "a group of not more than 5 persons who are not related by blood, marriage or adoption."

Assuming that the land use by-laws which were reviewed are a fair representation of Alberta municipalities generally, we could infer that the residential neighbourhoods of this Province do not welcome group care facilities for persons with disabilities, primarily for the following reasons:

- Group Care Facilities do not come within Permitted Use categories (except Limited Group Homes in Edmonton).

- Except as noted above, such facilities are classified as Discretionary Use in all zoning areas. Thus, any application to establish a group care facility within a residential area must be approved by bureaucrats and is open to challenge by potential neighbours.

- Definitions of *family* and *household* are rarely provided within the by-laws. This omission subjects these concepts to challenge and decision by municipal authorities and, perhaps, the courts.

- Sometimes group care facilities are zoned for commercial areas on a Discretionary Use basis. Placing group homes into commercial areas in part defeats the purpose of deinstitutionalization and normalization.

CHART ONE
COMPARATIVE SUMMARY OF SELECTED BYLAWS IN ALBERTA

Relevant Facilities	No. of Residents & Staff	Types of Residents	Authority	Residential Character	Permitted Use	Discretionary Use
EDMONTON						
• Limited Group Home	• 6 residents or less. • Staff not specified	• Foster Children • Disabled Persons • Persons with physical, mental, social or behavioral problems • Staff	• Authorized, licensed or certified by a public authority	• Of primary importance	- All zones except: • Residential Mixed Use • Commercial Use	
• Group Home	• 7 residents or more • Staff not specified	• As above	• As above	• As above		- All zones except: • Mobile Home District • Urban Services District
CALGARY						
• Special Care Facility (Nursing homes, geriatric centres, and group homes included)	• 1 or more residents in a half-way house • 7 or more in all other cases	• Individuals requiring care and rehabilitation				• Residential Single-Detached • Residential Low Density • Residential Low, Medium, & High Density Multi Dwelling
LETHBRIDGE						
• Group Home	• 4 residents or more • Total resident and staff occupancy specified by development permit	• Disabled Persons • Staff	• Provincially - approved residential social care facility		• All Public Service Districts • All Residential Districts	
RED DEER						
• Group Home	• Not more than 6 unrelated persons plus two staff	• Persons with developmental disabilities • Staff			• Residential Low Density • Residential (General)	

CHART ONE (Continued)
COMPARATIVE SUMMARY OF SELECTED BYLAWS IN ALBERTA

Relevant Facilities	No. of Residents & Staff	Types of Residents	Authority	Residential Character	Permitted Use	Discretionary Use
FORT MCMURRAY • Group Home	• Not Specified	• Foster Children • Disabled Persons • Persons with physical, mental, social or behaviorial problems.	• Authorized, licensed or certified by a public authority	• Essential to designation as a group home		• Low Density Residential • Residential Single Detached • Residential Zero Lot Line
• Social Care Facility		• Individuals who are physically, mentally or financially disabled and requiring care, supervision, or rehabilitation				- As above, plus • Local Commercial • General Commercial • Mixed Use Commercial • Shopping Centre District • Highway Commercial District • Central Commercial District
ST. ALBERT • Group Home	• Not specified	• Children, adolescents and adults requiring care or rehabilitation	• Authorized, licensed or certified by a public authority	• Essential to designation as a group home		• Low Density Residential • Medium Density Residential
BONNYVILLE • Group Care Facility (Category includes supervised uses such as group homes, halfway houses, resident schools, resident facilities and foster or boarding homes)	• 7 or more individuals • Staff not specified	• Individuals undergoing rehabilitation and provided with services to meet their needs.			• (Relevant facilities not specified.)	• (Relevant facilities not specified.)

CHART ONE (Continued)
COMPARATIVE SUMMARY OF SELECTED BYLAWS IN ALBERTA

Relevant Facilities	No. of Residents & Staff	Types of Residents	Authority	Residential Character	Permitted Use	Discretionary Use
PONOKA • Group Care Facility (Category includes supervised uses such as group homes, halfway houses, resident facilities and foster or boarding houses.)	• 7 or more individuals • Staff not specified	• Individuals are handicapped, aged or disabled and undergoing rehabilitation and receiving treatment			• (Relevant facilities not specified.)	• (Relevant facilities not specified.)
BOW ISLAND • No definitions of pertinent facilities						• "Other buildings and uses as approved by the Muncipal Planning Commission."
TABER • No definitions of pertinent facilities						
HIGH PRAIRIE • No definitions of pertinent facilities						
HINTON • Family Care Facility (includes foster or boarding homes for children, group homes and family homes)	• 6 or fewer not related to the resident household	• Individuals who are aged, handicapped, disabled or in need of adult supervision and are provided service.				• Residential Districts • Residential Zero Lot Line District

CHART ONE (Continued)
COMPARATIVE SUMMARY OF SELECTED BYLAWS IN ALBERTA

Relevant Facilities						
	No. of Residents & Staff	Types of Residents	Authority	Residential Character	Permitted Use	Discretionary Use
HINTON (Cont'd).						
• Group Care Facility (includes group homes.)	• 7 or more of whom some are related	• Individuals who are handicapped, aged, or disabled, and undergoing rehabilitation, and are provided services				• As Above

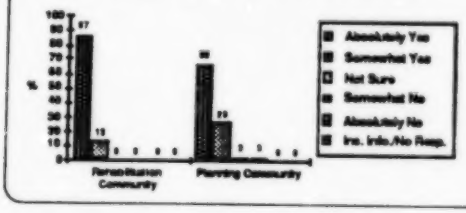
4.0 KEY INFORMANT SURVEY

4.1 SURVEY RESULTS

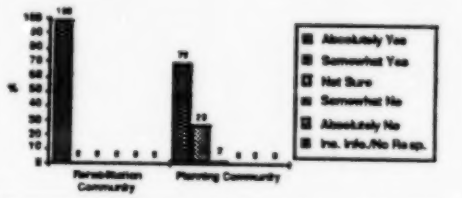
KEY INFORMANT SURVEY

An Assessment of Provincial Legislation, Building Regulations and Bylaws as a Barrier to Housing People with Disabilities.

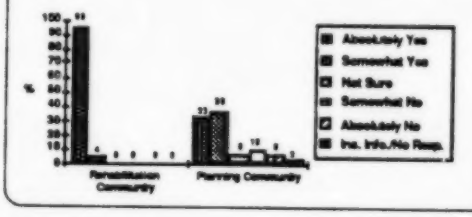
1. Given adequate personal support networks, do you believe that life in a regular house and community is desirable for persons with disabilities?



2. Do you believe that life in a regular house and community is beneficial for persons with disabilities?

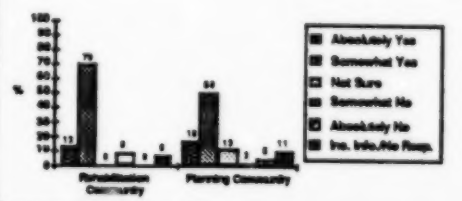


3. Should home adaption to meet a disabling condition warrant any special attention in the planning process?



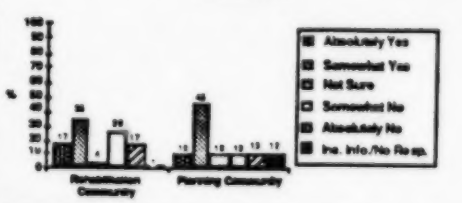
4. Should the provision of housing for people with disabilities be dealt with in a different way, ie. discretionary use category?

5. Should persons with disabilities need special protection from risk?



6. Should the residential needs of persons with disabilities include additional safety features, ie. exit signs, fire exits, fire extinguishers, etc.?

7. Should persons with disabilities be categorized as a "special group" when their residential needs are being considered?



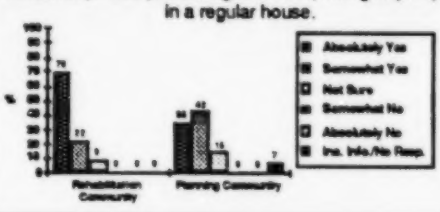
8. Do you believe that an unrelated group of persons with disabilities can constitute a family?

4.1 SURVEY RESULTS (Continued)

KEY INFORMANT SURVEY

An Assessment of Provincial Legislation, Building Regulations and Bylaws as a Barrier to Housing People with Disabilities.

9. Given adequate support services, can persons with disabilities achieve family life, ie. stable enduring relationships and personal growth etc., with group of peers in a regular house.

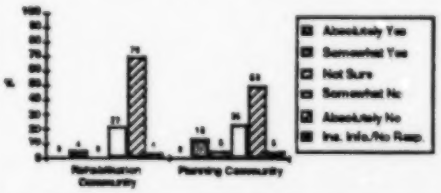


10. Is such a "family" living option desirable in the rehabilitation process?

11. Is such a "family" option beneficial in the rehabilitation process?

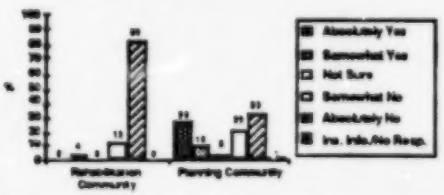
12. Should a resident full-time aide be considered a "family" member within the context of such a community living option?

13. Should such a group of persons with disabilities be required to make any application to a municipal government before they may occupy a house or apartment?



14. Should it be necessary to advise prospective neighbours of the intention to adapt a residence for use by person(s) with disabilities?

15. Should it be necessary to seek the approval from (prospective) neighbours of the intention to adapt a residence for use by person(s) with disabilities?



4.2 Survey Comments

4.2.1 Rehabilitation Community

General Comments:

- While I support life in regular house, this is only as it relates to the individual's need. Should not be used in place of living in an apartment if that's what person wants/needs. Living arrangements should be based on needs. Many adaptations could be built into codes, eg. All apartments should be wheelchair accessible. The way questions phrased, tends to focus on need to categorize people to access funds. This tends to perpetuate differences and focus attention on a deficiency/medical needed approach. The attached article looks at this issue in classroom, but I feel certain aspects of arguments used could apply to the approach to housing for these labelled disabled. One must look at the costs/benefits in categorizing people to access funds.

- I am somewhat surprised that these particular questions are still being asked. Although our society has many adjustments to make to create a true "barrier free environment" there should be no question that free choice in living arrangements is preferred by all disabled individuals and their families. "Family" living options are desirable and beneficial in the rehabilitation process. We have realized that one of the most difficult barriers to community housing for disabled people is our service model and we have been striving to make the necessary changes so all people with disabilities will have choice. Given that some disabled people have already achieved successful physical and social integration, why would we, at this point in time, question the merits of such a philosophy?

- The number one concern should be to allow choices. Choice of where to live and who to live with. We must move away from arbitrarily "choosing" these "family" groups. The people must be given the opportunity for choice.

- I would appreciate a telephone follow-up to this survey to better respond to the other questions in the "special needs" category. Our Association supports and promotes living arrangements which are as normative as possible and which are developed according to each person's particular needs.

- My only concern is with the use of the word "group." I would prefer to see 2 persons maintained in a home with the necessary support services - and hardly think that qualifies as a "group."

- In 1983, the City of Edmonton approved a Bylaw change proposed by a multi agency committee (Chaired by the Social Justice Commission - Sr. Sheramy Johnson) to remove the requirement to notify neighbours of a proposed multi-person (1-5 people) (unrelated) home. There was some opposition but no community reaction in Edmonton since the change. Calgary had substantial reactions after a similar change and ultimately decided to reverse the bylaw and return to the original.

- I believe there may be some distinction between citizens with disabilities independently securing accommodations for themselves, (in which case absolutely no special notifications or applications ought to be required) and an agency purchasing or leasing a home or an apartment on behalf of citizens with disabilities (in which case it would be in the best interest of the agency, from a public relations viewpoint, to inform but not to seek the approval of immediate neighbours of the intended use of that home or apartment by the agency). Generally, there should be no more "hoops" to jump through for persons with disabilities than there are for any other citizen of this province in securing adequate accommodation.

- It is important to protect the rights of people in existing neighbourhoods and also protect

the rights of people with special needs. The key is to ensure that discrimination does not occur because of the disability, but having a disability should not be taken as license to change the quality of life in a neighbourhood. Some fair and reasonable controls are needed.

- The decision to fund or not to fund a "special needs" project is left up to government departments such as AMHC and CMHC. These decisions often do not reflect client need - (eg. Not enough community housing available for disabled persons) or the market - (eg. too many bachelor suites built for Seniors - many sitting empty). Provision of Housing should be based on need and market analysis, not on present policy. Policies themselves need to be more flexible, change with the changing demographic make-up of our society. Hope this helps.

- Community integration should be as normalized and integrated as possible. Small integrated apartments, for example, rather than group homes are desirable. We must avoid the decentralization of institutions into mini-institutions. Residential needs must be viewed as being accompanied by related (work, leisure, personal support) needs and a comprehensive framework of community care must be developed. Housing alone will fail the consumer.

- Persons with disabilities (physical and mental) should not be required to obtain "permission" to live in the community. The only exception I can see to this is possibly some persons with mental disorders which may be a threat to safety of neighbors, etc.

- We find it difficult to answer the questions because the definition of "Persons with Disabilities" used in the questionnaire is too general. Even though they are disabled, the physically and the developmentally disabled people have different needs which require different services, and so are the hearing impaired. Due to different unique needs and abilities of the disabled people, community group homes, together with independent living, offer a valuable service to the handicapped people, especially when the principles of Normalization are incorporated into the treatment programs.

- There are several different types of services and living options needed for persons with brain injuries - depending on the individual - where they are at in their recovery - supports - such as staff etc, eg. Group homes - with one - one staff support. Transitional homes - less staffing. Apartment training with supervision. In family homes with contracted support services. Shared accomodations. Independent living - attending day programs.

Comments Re: Question #3 *Should home adaptation to meet a disabling condition warrant any special attention in the planning process?*

- Safety needs.

- Questions 3 - 7 under "Special Needs" are unclear and would be better handled through telephone solicitation.

Comments Re: Question #4 *Should the provision of housing for people with disabilities be dealt with in a different way, ie. discretionary use category?*

- Persons with disabilities have special needs which must be considered in order to provide them with suitable housing. At the same time, disabled citizens have the right to live where they wish. Municipal bylaws should not violate this right.

Comments Re: Question #5 *Should persons with disabilities need special protection from risk?*

- Physical harm.

Comments Re: Question #6 *Should the residential needs of persons with disabilities include additional safety features, ie. exit signs, fire exits, fire extinguishers, etc.?*

- Question 6 refers to safety features. While it is desirable to have fire extinguishers and smoke detectors, one has to be careful, that overuse of safety features can result in a home resembling an institution.
- "Normal" safety features, eg. fire extinguishers - no exit signs.
- Depends on size of the residence, ie. A house does not need an exit sign, but a highrise would require it.

Comments Re: Question #7 *Should persons with disabilities be categorized as a "special group" when their residential needs are being considered?*

- Or rather a "normal group" that require some "special considerations" such as accessibility, affordability, possible support services.
- Normalization must be safe guarded.

Comments Re: Question #8 *Do you believe that an unrelated group of persons with disabilities can constitute a family?*

- Some groups with common disabilities may consider themselves as a sub-cultural group.
- Age related, eg. child versus young adult.
- Biologically or legally?

Comments Re: Question #9 *Given adequate support services, can persons with disabilities achieve family life, ie. stable enduring relationships and personal growth, etc., with group of peers in a regular house?*

- Are you talking about people who are living together by choice, or because they must live together, as eg. 6 people in a group home. Are they the only one in group with challenging needs.
- Answer to number 9 was given as a relationship answer, ie. male - female. People don't develop relationships because they happened to be grouped together; it becomes more of a room-mate relationship versus family. People with disabilities should also have choices as to whom they wish to live with and shouldn't be grouped together solely because they have similar needs.
- Questions 9, 10, 11 - if this refers to "group homes" the answer would be "no" to each. If however, the "family" is a group or individual that has chosen their peers then "yes" would be the response.
- Age related.

Comments Re: Question #10 *Is such a "family" living option desirable in the rehabilitation process?*

- Depends on individual requests. (also applies to Question 11)

Comments Re: Question #12 *Should a resident full-time aide be considered a "family" member within the context of such a community living option?*

- Depends on how big the group is.
- Impossible to answer this question.
- At this point in time, a residential aide is not considered a family member, ie. Social Services does not consider the cost of rent (for the extra bedroom) for a family or individual who requires a residential aide. Our agency will be approaching Alberta Social Services regarding this discriminatory policy.

Comments Re: Question #13 *Should such a group of persons with disabilities be required to make any application to a municipal government before they may occupy a house or apartment?*

- Not unless city provides something extraordinary such as tax concessions to residence.

- Application to occupy is not acceptable (indicates approval or denial). Advisement of occupancy is appropriate. Philosophically opposed to advisement or approval from neighbourhood. However, if a hostile or unacceptance by neighbours becomes evident only after occupancy? (also applies to questions 14 and 15)

Comments Re: Question #14 *Should it be necessary to advise prospective neighbours of the intention to adapt a residence for use by person (s) with disabilities?*

- Only if the construction/renovation is to extent that requires notification, regardless of nature.

Comments Re: Question #15 *Should it be necessary to seek the approval from (prospective) neighbours of the intention to adapt a residence for use by person(s) with disabilities?*

- Only to extent any home renovation requires consent of neighbours.

4.2.2 Planning Community

General Comments

- I feel people should be allowed to live where they want, disabled or not. Although I also feel that mandatory residential standards for house design is not the way to go. Modifications after the fact can be made on specified selected homes. Severe mentally handicapped people may constitute a different response to this quesionnaire.

- The answers to many of the questions depends upon the definitions of some of the terms. For example, what "disabilities" are included? Physical, Emotional, Mental? What might be the "group" size? Is the "service provider" live-in or might there be more than one? What types of "special protection" might be necessary for what types of "risks"? The responses to these questions may be other than those provided if the details of these questions were extraordinary. In general terms however, it is neither appropriate nor necessary that elaborate regulatory and approval mechanisms be in place related to housing the disabled. Comprehensive and sensitive planning is necessary to the long-term provider of these services, as well as the integration of their housing into the community and can greatly diminish the need for regulatory intrusion.

- Questions are too broad, very difficult to answer specifically. Each disability case should be handled individually with guidlelines.

- For zoning purposes, a home for 6 or fewer unrelated adults should not require approval by Municipal Planning Commissions. For attainment of an integrated lifestyle, three people or fewer in one housing unit is desirable. Families are made up of people with intimate relationships with one another. When people live together without this sort of relationship, they are room-mates or housemates.

- I have some difficulty in responding to Planning procedures. Our land use bylaw has specific requirements for notifying the public regarding any discretionary land use and appropriate considerations are given by MPC and DAB as to any impact a development has on the amenities of the neighbourhood and "materially interfere with or affect the use or enjoyment of neighbourhood properties." The impact considered in this questionnaire is more "emotional" than technical, but still has to be considered in this age of open and democratic government.

- It has been demonstrated that the disabled, given the opportunity, and the help they need (support) can lead a productive and useful life. They should not be penalized for their disabilities. Many do require institutional type attention and they must be dealt with on their own merits. There are however, many that only require help and someone to check on them from time to time.

- I have difficulty with the inclusion of rehabilitation which, for the purpose of this survey, is undefined.

- We have a home in our community for persons with disabilities and our citizens support it whole-heartedly. It probably receives this support because we have such a world of stress in our society today that people appreciate how fortunate we are when they see what the disabled must overcome to be part of that society.

- Your form does not indicate what type of disabilities are being referred to. Ie: Physical disabilities may involve some special design provisions for safety/access etc., which can be addressed in the normal approval process. The community should have the opportunity to evaluate the impact of development for certain special needs groups where they present a real or perceived risk to other residents. While the questionnaire may give an indication of the attitudes of your respondents it does not appear to evaluate the effects of existing legislation on the disabled.

- MPC may need to know only due to special modifications (ie. physical modifications) to a prospective dwelling - not due to any value judgments on group homes. When 5 or more unrelated persons are living together it should be known by authorities, but the abilities or disabilities of the residents should be irrelevant except where physical changes need to be made to the dwelling.

- Group homes definitely have an impact on abutting neighbourhoods but in many cases fit very well. Discretion is required by approving agency but also by the user group.

- If people with disabilities want to live in a regular house, they should be treated the same as everyone else. I do not need to ask for approval from neighbours before I move into a house. Why should a disabled person.

- Need clear definition of what constitutes a "disability" for the purposes of the study. Some disabilities such as loss of one limb may demand lesser physical adaption of the surrounding and therefore a lower level or no "special" treatment. If one goes too far in modifying the regulatory process and standards to suit those with special needs, one risks modifying the environment to such an extent that it is no longer a "normal" environment. On the other hand lessening the trials of a person with a disability(s) through good design of the physical environment would seem an entirely laudable endeavour.

- Appendix Three provides a written response from the City of Edmonton.

Comments Re: Question #2 *Do you believe that life in a regular house and community is beneficial for persons with disabilities?*

- Depends on disability

Comments Re: Question #3 *Should home adaption to meet a disabling condition warrant any special attention in the planning process?*

- Depends on nature of adaptation.

Comments Re: Question #4 *Should the provision of housing for people with disabilities be dealt with in a different way, ie. discretionary use category?*

- Only if physical modifications affect neighbours!

Comments Re: Question #5 *Should persons with disabilities need special protection from risk?*

- Need more specifics. Clarification of risk.

- Crime? Fire? Other Persons? - From what risk?

Comments Re: Question #6 *Should the residential needs of persons with disabilities include additional safety features, ie. exit signs, fire exits, fire extinguishers, etc.?*

- In some instances.
- Only if not covered by building code ie., ramps, smoke detectors, width of doorways, height of cupboards, sinks, appliances, light switches, etc.

Comments Re: Question #7 *Should persons with disabilities be categorized as a "special group" when their residential needs are being considered?*

- Disabilities vary.

Comments Re: Question #8 *Do you believe that an unrelated group of persons with disabilities can constitute a family?*

- The key question is number 8. A group of unrelated individuals should be able to live together as a family. We already accept this, for example, where two or more unrelated seniors might live in the same household or two or more "non-disabled" individuals might live together. If a group of unrelated disabled individuals cannot constitute a family, then all other situations where unrelated individuals do in common practice constitute a family should not be allowed. There should be no difference because the individuals happen to be disabled and there should be safeguards to protect against discrimination on the basis of being disabled. The point is that once there is a clear answer to question 8, most of the other questions and answers should fall into place.

Comments Re: Question #10 *Is such a "family" living option desirable in the rehabilitation process?*

- If it meets the needs of the individual and is the choice of the individual.

Comments Re: Question #13 *Should such a group of persons with disabilities be required to make any application to a municipal government before they may occupy a house or apartment?*

- Presuming you are still within the context of the questionnaire regarding disabled.

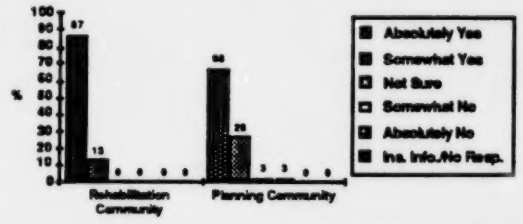
Comments Re: Question #14 *Should it be necessary to advise prospective neighbours of the intention to adapt a residence for use by person (s) with disabilities?*

- As long as residence conform the same as any other residence.
- Depends on extent of adaptation.

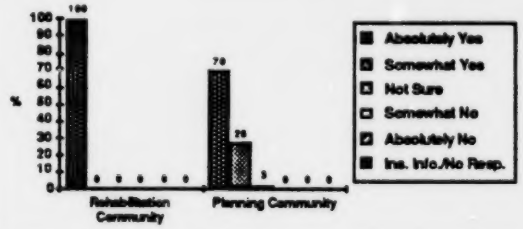
Comments Re: Question #15 *Should it be necessary to seek the approval from (prospective) neighbours of the intention to adapt a residence for use by person(s) with disabilities?*

- Depending on the zoning requirements of the municipality.
- As long as it conforms to existing regulations.
- Only if it constitutes a change from existing zoning change (also would apply to #13 and #14).
- If permitted use, "No". If descretionary, "Yes."
- Generally "No", without more explanation a difficult question.
- If physical changes are made.

1. Given adequate personal support networks, do you believe that life in a regular house and community is desirable for persons with disabilities?



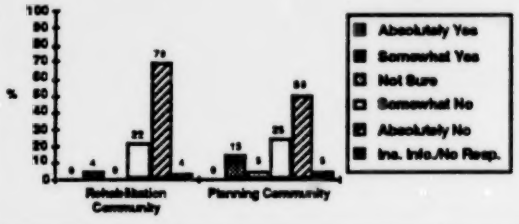
2. Do you believe that life in a regular house and community is beneficial for persons with disabilities?



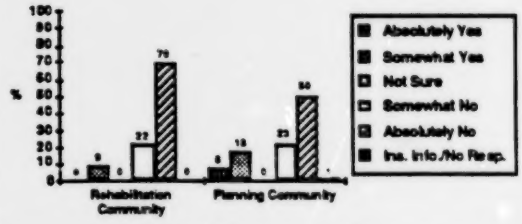
4.3 Survey Interpretation

Regarding Questions 1 and 2 there is a strong belief by both respondent groups that life in a regular house and community is both *desirable* and *beneficial* for persons with disabilities. The Planning Community is not quite as positive, but nevertheless expresses an almost 100% Absolutely Yes or Somewhat Yes opinion. The Rehabilitation Community almost totally expresses an Absolute Yes to these questions, showing with little doubt the almost complete extent to which the principle of normalization translates into the need for life in a regular community setting. This perception reflects current rehabilitation theory.

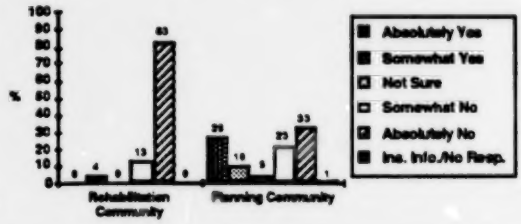
13. Should such a group of persons with disabilities be required to make any application to a municipal government before they may occupy a house or apartment?



14. Should it be necessary to advise prospective neighbours of the intention to adapt a residence for use by person(s) with disabilities?



15. Should it be necessary to seek the approval from (prospective) neighbours of the intention to adapt a residence for use by person(s) with disabilities?



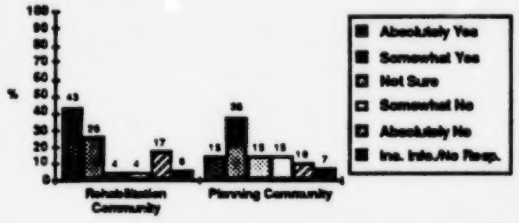
In practice, however, the responses to Questions 13, 14, and 15 demonstrate diverging values between the two groups. Significantly, the Absolutely No response to these three questions is higher in each instance from the Rehabilitation Community: it is strongly opposed to the requirement of person(s) with disabilities having to:

- make application to a municipal government
- advise prospective neighbours of the intention to adapt a residence, and
- seek approval from neighbours in order to adapt a residence.

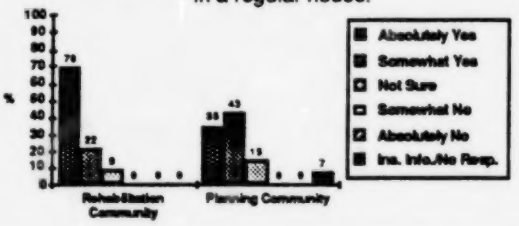
In fact, the Rehabilitation Community's opinion includes only a few positive responses to these questions, illustrating a strong expression that the adaption for, or occupancy of, a residence by persons with disabilities is nobody else's business...not even the municipal government's.

By contrast, the Planning Community responses show a significantly stronger emphasis on the positive options (where application or approval must be sought): this group believes that municipal government *and* neighbours should be involved in the application and approval process before a house may be occupied or adapted. The questions must be begged: on what information does the Planning Community base their opinions? And to what extent do they influence affairs in their jurisdiction?

8. Do you believe that an unrelated group of persons with disabilities can constitute a family?

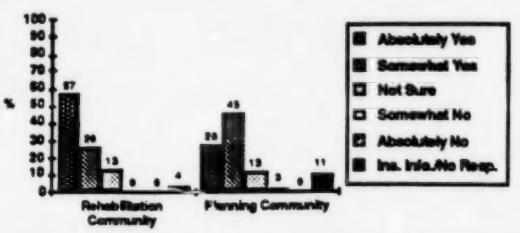


9. Given adequate support services, can persons with disabilities achieve family life, ie. stable enduring relationships and personal growth etc., with group of peers in a regular house.



10. Is such a "family" living option desirable in the rehabilitation process?

11. Is such a "family" option beneficial in the rehabilitation process?



Questions 8 through 11 enquire into definition of "family" and the ways in which a group of persons with disabilities might constitute a family.

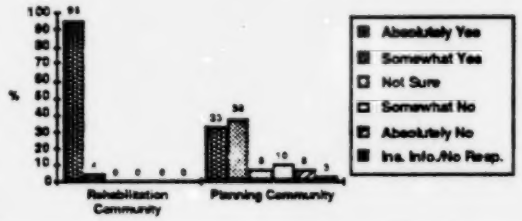
The responses consistently illustrate that the Rehabilitation Community adopts a more liberal interpretation: its bias is more positive towards the notion that an unrelated group of persons with disabilities can constitute a family, as well as establish a family life. Further, the Rehabilitation Community regards such family living options as being both desirable and beneficial in the rehabilitation process.

The Rehabilitation Community response to Question 8 reveals an interesting and, perhaps, deceptive Absolutely No response: the community living movement has advanced its thinking beyond the option of group homes to a position that persons with disabilities should not have to accept congregate living situations, since they should reside within a natural, adoptive or surrogate family, or alone. This may account for responses that are sharply contrasted within the same group (43% of respondents indicated Absolutely Yes).

To a lesser extent, the Planning Community shows the same bias: as a group they believe that benefits can result from "family" life in a regular house. It is important to note that the Not Sure and Insufficient Information/No Response to each of these four questions total 21% - 24%, perhaps indicating a lack of knowledge or confidence in the Planning Community on the topic. The Planning Community's responses are most divided on Question 8, as are responses between the two groups. Since what constitutes a *family* or *household* is a central issue on debate and discussion concerning residential by-laws, it provides evidence of the varied viewpoints that lie behind the issues.

12. Should a resident full-time aide be considered a "family" member within the context of such a community living option?

3. Should home adaption to meet a disabling condition warrant any special attention in the planning process?

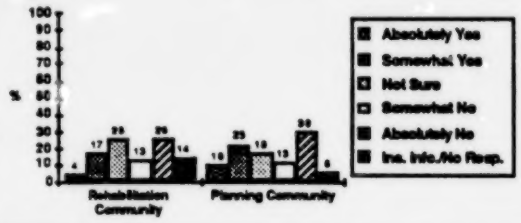


The confusion over "family" is further evidenced in the wide range of opinions on Question 12. At first appearance the responses between the groups look similar. On closer examination the Rehabilitation Community is less disposed to considering a resident full-time aide, a family member, more than half do not favour considering an aide as a family member. Notably, over one third of the Planning Community indicates either Not Sure or Insufficient Information/No Response once again indicating the need for more information.

Interesting differences between the two communities are revealed in the responses to Question 3. The Rehabilitation Community generally favours a more liberal position regarding the option to live in a regular house and community, but it is very strongly in favour of home adaption warranting attention in the planning process. This apparently incongruous opinion is probably explained by an ambiguity in the question. It is difficult to discern the extent to which the interpretation of the question has affected the responses. When first written, the question was meant to inquire as to whether any special attention should be paid by the municipal planning office to the fact that a home was being adapted (other than conforming to the Building Code). Although that may well have been the Planning Community's general interpretation, the Rehabilitation Community appears to have taken another meaning, judging by its response.

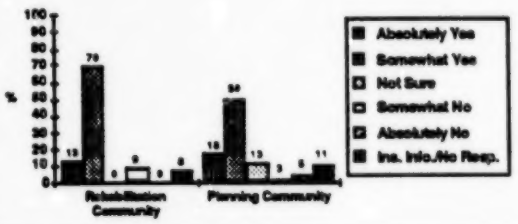
Question 3 can also be read to inquire as to whether home adaption requires special attention to design (ie. house planning) and it is this meaning that the Rehabilitation Community has probably interpreted.

4. Should the provision of housing for people with disabilities be dealt with in a different way, ie. discretionary use category?



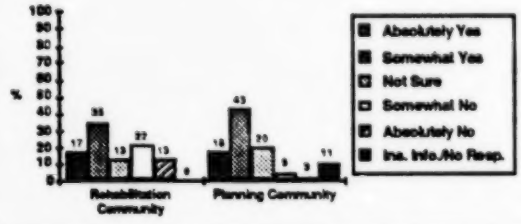
Responses to Question 4 show a similarity between both groups. It is important to note that 26% of the Rehabilitation Community indicated Not Sure, and 14% indicated Insufficient Information/No Response to the question. The bias in both groups is against different provisions for housing people with disabilities. Considering the common practice of including group homes, etc., into a discretionary use category within the zoning by-laws the results are somewhat surprising. The Planning Community expressed stronger opinions (Yes *and* No responses) to this question than the Rehabilitation Community, which may reflect the polarized positions that have resulted in public debate concerning the provision of housing for people with disabilities in the regular community.

5. Should persons with disabilities need special protection from risk?



Question 5 and 6 were intended to determine the extent to which the groups supported the principle of the dignity of risk. The responses to Question 5 show that both groups hold similar (mainly in favour) opinions about the need for special protection from risk. It is possible that some of the respondents have interpreted this question (as in Question 3) as being related to house design, rather than the concept of being allowed to live at risk in the community.

6. Should the residential needs of persons with disabilities include additional safety features, ie. exit signs, fire exits, fire extinguishers, etc.?



The difference on the topic of risk between the two groups is illustrated in the responses to Question 6. The opinion of Rehabilitation Community is less favourable than the Planning Community towards additional safety features. Although a majority favour such features, a large percentage do not, once again demonstrating the liberal concepts of community living advocates. Only a small percentage of the Planning Community share this liberal view.

7. Should persons with disabilities be categorized as a "special group" when their residential needs are being considered?

"Special group" conjures up sharp images to the Rehabilitation Community. A paradoxical debate continues about the use of the word *special* becoming misinterpreted as *separate*. The division of this debate is illustrated in the response to Question 7.

The Planning Community is more in favour of categorizing persons with disabilities as a "special group" where their residential needs are considered, although almost a quarter responded either Not Sure, or Insufficient Information, which indicates the need for more information on the subject.

5.0 DISCUSSION

Reflecting results of the survey, comments by both the Rehabilitation and Planning Communities generally support the desirability of community living, and thus the principle of normalization in this respect, for persons with disabilities. However, as with the survey results, comments by the Rehabilitation Community provide stronger expression of support for this philosophy. In fact, one respondent was surprised that the question should even be asked: "There should be no question that free choice in living arrangements is preferred by all disabled individuals and their families." Similarly, another respondent felt that persons with disabilities should not need to comply with any more regulations than other citizens in their quest for adequate accommodations, and another supported the individual's freedom of choice in where to live and with whom to live. One respondent from the Rehabilitation Community particularly noted that people with disabilities should not be grouped together only on the basis of similar needs.

The concept of choices and options is also supported by the planners, although more guardedly. A number of planners stated that all people, whether disabled or not, should have the freedom to live where they wish. A common sentiment was that persons should not be "penalized" for having disabilities. Others, however, made such freedom contingent upon the nature of the disability. One respondent felt that "each disability case should be handled individually with guidelines," and three other planners requested a definition of the disabilities under consideration.

Members of the Rehabilitation Community, too, made distinctions based on type of disability, and indicated that different types of services and living options would be needed for different types of disabilities. Respondents pointed out distinctions between the physically and developmentally disabled, and also singled out persons with hearing impairments and brain injuries. However, the distinctions were only made to demonstrate different needs rather than to deny a particular group the freedom of choice regarding living arrangements. Only one member of the Rehabilitation Community suggested that this freedom be denied to "possibly some persons with mental disorders which may be a threat to the safety of neighbours." A planner also singled out "severe mentally handicapped people" as a group for whom questionnaire responses might differ.

Questions aimed at determining whether individuals with disabilities should seek permission or approval of neighbours and the municipality to live in residential neighbourhoods elicited a similar split in opinion between the Planning and Rehabilitation Communities. In their comments, the former generally deferred to compliance with zoning requirements and existing regulations. While some Rehabilitation respondents also referred to the need to comply with building regulations, they more frequently expressed opposition to exclusionary measures. For example, one individual expressed unequivocable opposition to the need for neighbours' approval. However, this respondent conceded that community hostility could become a problem if neighbours were not informed prior to occupancy; therefore, advisement of occupancy would be appropriate. Another member of this group spoke of maintaining a balance between the rights of existing neighbourhoods and the rights of people with special needs: "Having a disability should not be taken as license to change the quality of life in a neighbourhood." A planner similarly noted that "discretion is required by the approving agency, but also by the user group."

The views of the Planning Community which emerge from the survey, that is, that the municipal government and neighbours should be involved in the application and approval process before a house may be occupied or adapted, are perhaps most succinctly expressed by the following comment: "The community should have the opportunity to evaluate the impact of development for certain special needs groups where they present a real or perceived risk to other residents." However, this comment, as well as many others, appears to apply more particularly to

group homes than to individuals seeking accommodation for themselves and their families. As one respondent from the Rehabilitation Community points out, there is a perceived distinction between "citizens with disabilities independently securing accommodation for themselves" and "an agency purchasing or leasing a home or an apartment on behalf of citizens with disabilities." In the former case, respondents generally agree that no involvement of neighbours or authorities is indicated, unless structural changes to the dwelling are required. One planner expresses this view clearly: "If people with disabilities want to live in a regular house, they should be treated the same as everyone else. I do not need to ask for approval from neighbours before I move into a house. Why should a disabled person?"

Whether a residence is viewed as a private family home or as a group home very much depends upon a definition of *family* or *household*. A number of survey questions address different aspects of this issue and reveal a wide range of opinions. Like the survey results, comments by the Rehabilitation Community reflect their philosophical movement away from congregate living arrangements to favouring residential options within a family (natural or adopted), or alone. For example, one respondent noted that small integrated apartments are preferable to group homes, which may represent "decentralization of institutions into mini-institutions." Another member of the Rehabilitation Community showed support for this attitude by expressing a concern with the word *group*. Two persons living in a home with the necessary support services was preferred to a group living arrangement.

Comments by planners on the issue of family more clearly reflect an adherence to municipal zoning by-laws. One such respondent defined a family as being "made up of people with intimate relationships with one another." All others are roommates or housemates. Applying a similar definition of family, another planner felt that authorities should be aware of five or more unrelated persons residing together, but abilities or disabilities of residents should be irrelevant, unless structural changes to the dwelling are undertaken. A third respondent, however, felt that a group of unrelated individuals should be able to live together as a family and that no distinction should be made for disabled persons. This individual indicated that once this definition is accepted, "all other questions and answers should fall into place." The survey results similarly demonstrate a debate within the Planning Community on whether a group of unrelated persons constitutes a family, although this Community generally accedes that disabled persons can derive benefits from living within a family setting, whether or not members are related.

In keeping with the dignity of risk principle, members of Rehabilitation Community show that they are less inclined than the planners to provide special protection for persons with disabilities. Their comments generally reflect the survey results. For example, respondents from the Rehabilitation Community stress that overuse of safety features can make a home resemble an institution, although "normal" safeguards such as smoke detectors and fire extinguishers are acceptable. Generally, however, both groups of respondents do favour additional safety features for persons with disabilities. A planner, for instance, listed items not covered by the building code: ramps, smoke detectors, door widths, and cupboard, sink, appliance and light switch heights.

Somewhat related to the question of special safety features is the inquiry as to whether home adaptation for a disabling condition warrants special attention in the planning process (question 3). As noted in the section on Survey Interpretation, the "absolutely yes" answer suggests that the question may have been interpreted by the Rehabilitation Community to mean a requirement for special attention to design, rather than attention by the municipal planning office. Comments by the Rehabilitation Community do not address this issue, but the following remarks, made by a member of the Planning Community, may in fact summarize the views of the former group: "If one goes too far in modifying ... stan-

dards to suit those with special needs, one risks modifying the environment to such an extent that it is no longer a 'normal' environment. On the other hand lessening the trials of a person with a disability(s) through good design of the physical environment would seem an entirely laudable endeavour."

6.0 CONCLUSION

Although in an ideal future persons with disabilities should not need to defend their right to live in a "normal" residential neighbourhood, our research shows that we as a society are still not near this ideal. The three methods of research (a review of the literature, analysis of existing by-laws in Alberta municipalities, and a survey of key informants) all reveal a gap between theory and practice, between the ideal and the norm. Although almost everyone supports and accepts the concept of normalization, and consequently the integration of persons with disabilities into the community, our research confirms that occupants of residential neighbourhoods, in fact, do not always welcome disabled persons into their midst. "Not in my backyard, you don't" is all too often the reaction of middle class neighbourhoods to persons with disabilities who wish to move in (Time, June 27, 1988).

A reveiw of the literature reveals this tension between the ideal, espoused by the principle of normalization, and reality, evident in attitudinal barriers, zoning by-laws, and legal challenges. Ironically, normalization, which has been the major philosophical impetus for deinstitutionalization and movement of persons with disabilities into the community, has won widespread acceptance, and yet it has caused intense opposition to community residences. Our research has shown that despite acceptance in theory, this concept is either not acknowledged or incompletely understood with regard to residential accommodation. This philosophy is not evident in the land-use by-laws for Alberta municipalities, either explicitly or in intent, because the issue of group living options for persons with disabilities is relegated almost exclusively to a Discretionary Use category. Of the municipalities reviewed, only the City of Edmonton permits establishment of at least one type of community living facility. In the survey of key informants, the Planning Community reveals that they lack complete knowledge of the philosophy, but support it in principle.

Attitudinal barriers to community integration are based largely on unfounded fears related to soaring crime rates, declining property values, changing neighbourhoods, and feuding neighbours (Sigelman et al., 1979). A review of Alberta's municipal zoning by-laws reveals that Municipal Planning Commissions and Development Appeal Boards do not alleviate such fears and in fact encourage attitudinal barriers by not explicitly permitting community living facilities within residential neighbourhoods. Thus, neighbours' permission must be sought, thereby implying that persons with disabilities do not have an inherent right to reside in the same areas with them. Court battles resulting from zoning discrimination incur severe costs and may defeat the goal of integration when challenges are lost.

The survey of Alberta's Planning Community does not reveal attitudinal barriers on their part. They generally expressed support and empathy for persons with disabilities and felt that all people should be allowed to live wherever they wish. In short, no one should be penalized because of his or her disabilities. Contrary to the zoning by-laws, one planner noted, "It is neither appropriate nor necessary that elaborate regulatory and approval mechanisms be in place related to housing the disabled."

Unfavourable public attitudes may cause a community to erect zoning barriers, which are commonplace in Alberta municipalities. In fact, a survey of the land-use by-laws suggests that the residential neighbourhoods of this Province do not welcome group care facilities for persons with disabilities. This conclusion arises from a number of observations. First, in none of the municipalities surveyed do such facilities (except for Limited Group Homes in Edmonton) come within a Permitted Use category. Instead, an application to establish accommodations for group care (given that such facilities are even allowed on a Discretionary Use basis) within a residential area is required and, therefore, subject to approval of neighbours and the bureaucratic process. Another "sin of omission" is the failure to provide definitions of *family* and *household*.

These concepts are, therefore, open to challenge and decisions by municipal authorities and, perhaps, the courts. Finally, in some municipalities group homes are zoned for commercial areas on a Discretionary Use basis. Placing these homes into commercial areas defeats the intent of normalization.

The survey of key informants shows that members of the Rehabilitation Community oppose any suggestion that disabled persons must seek approval of neighbours before moving into a residential neighbourhood. Thus, given existing by-laws, the stage is set for conflict with regard to group home establishment. Members of the Planning Community, on the other hand, show no such animosity and generally defer to zoning requirements and existing regulations. The survey clearly shows that these respondents view the involvement of the municipal government and neighbours through an application and approval process as necessary prior to adaptation or occupation of a house.

Legal challenges often result from zoning by-laws which erect barriers and from the Municipal Planning Comission/ Development Appeal Board process. Neighbourhood opposition can strongly affect the outcome of this process and can incite recourse to the legal system. Both the municipal appeal processes and court cases are financially and emotionally taxing, and when results do not rule in favour of persons with disabilities, movement toward community integration is weakened. The zoning by-laws, however, encourage the appeal process by not giving persons with disabilities outright permission to reside within residential neighbourhoods. Although the Rehabilitation Community believe that by-laws should not violate a person's right to live in the setting of choice, the Planning Community are generally not unfavourable toward the MPC/DAB process. However, legal cases are beginning to override municipal decisions arrived at through these processes and are increasingly upholding the rights of persons with disabilities to live in residential neighbourhoods.

Ultimately, but certainly not ideally, a future wherein persons with disabilities need not defend their right to live in a "normal" neighbourhood may evolve from the adversity of legal challenges. With the enactment in some provinces of the Canadian Charter of Rights and Freedoms, which takes precedence over all federal and provincial laws, Canada will probably see more recourse to the legal system as more persons with disabilties appeal to provisions of the Charter. Since Alberta has not adopted the Canadian Charter of Rights and Freedoms, but has instead chosen to govern such issues under the Individual's Rights Protection Act, it is important to realize that during the Spring 1988 Session of the Alberta Legislature the Government gave assent to Bill 1, "Premier's Council on the Status of Persons With Disabilities Act." As part of the necessary house cleaning in other legislation that results from Bill 1, the Minister of Labour, who is responsible for the Individual's Rights Protection Act, has been instructed to introduce amendments that will include persons with mental disabilities within the definitions of the Act. When these amendments become law in Alberta, the stage may be well set for a legal challenge to "Discretionary Use" on the basis of discrimination due to a handicap. It would be a positive step in Alberta if the potential for such confrontation could be averted by timely, voluntary and enlightened revisions to the municipal by-laws throughout the province.

7.0 RECOMMENDATIONS

In conducting this research project a number of matters have been learned, all of which point to the charge that people with disabilities are subject to discrimination when gaining access to accommodations located in the community. From these our recommendations proposed fall into three major categories:

A. By-Law Revisions

1. Regulations which discriminate on the basis of disabilities should be deleted from the by-laws. To facilitate this, ways should be found to advance the knowledge of municipal planning personnel and help municipalities see *why* "Discretionary Use" should be removed from the by-laws.

2. The definitions of family or household in municipal by-laws be significantly broadened so that discrimination against groups of persons with disabilities can stop.

3. Pockets of discrimination, which permit group homes only under a "Discretionary Use" category in *commercial* (or any other non-residential) areas should be eliminated from municipal by-laws.

B. Education of Municipal Planners

4. Municipal planners must be educated on the principles of serving people with disabilities so that they can understand such persons relative to their abilities rather than their disabilities. From this, planners should be able to act in a positive way, rather than being able to hide behind the nuances of the by-laws.

C. Education of the Public

5. Information about the fundamentals of normalization should be made available to communities. This should include educational material that explains group, family and individual living situations.

6. The philosophy of normalization should be furthered by public education, rather than by confrontation and legal challenges, since the latter devices support a negative connotation towards changing attitudinal barriers.

7. The general public need to be educated towards understanding that safety and property values will not be compromised when people with disabilities live in the neighborhood.

REFERENCES

Apolloni, T., Joanna Cappucilli and Thomas Cooke, eds. Achievements in Residential Services for Persons with Disabilities: Toward Excellence. Baltimore: University Park Press, 1980.

Baker, B.L., G.B. Seltzer and M.M. Seltzer. As Close As Possible: Community Residences for Retarded Adults. Boston: Little, Brown and Company, 1977.

Baron, Richard C. and Joseph R. Piasecki. "The Community versus Community Care." Ed. Richard D. Budson. Issues in Community Residential Care. San Francisco: Jossey - Bass Inc., 1981.

Berkler, Margo, et al., eds. Current Trends for the Developmentally Disabled. Baltimore: University Park Press, 1978.

Boeckh, John, Michael Dean and S. Martin Taylor. "Property Values and Mental Health Facilities in Metropolitan Toronto." Canadian Geography 24, no. 3 (1980): 270 - 285.

Castellani, Paul J. The Political Economy of Developmental Disabilities. Baltimore: Paul H. Brookes Publishing Co., 1987.

Dolan, Lawrence W. and Julian Wolpert. Long Term Neighborhood Property Impacts of Group Homes for Mentally Retarded People. Princeton, New Jersey: Woodrow Wilson School of Public and International Affairs, November 1982.

Dominion Reports Services. Summaries of Canadian Court Decisions. Edited by CCH Canadian Limited. 1968 to March 1988.

Ellis, James W. and Ruth A. Luckasson. "Discrimination Against People with Mental Retardation: A Comment on the Cleburne Decision." Mental Retardation 23, no. 5 (1985): 249 - 252.

Gunn, Jonathon. Housing for the Disabled in Manitoba. University of Winnipeg: Institute of Urban Studies, 1982.

Herr, Stanley S. Rights and Advocacy for Retarded Prople. Toronto: D.C. Heath & Company, 1983.

Knight, Andrea S. "Attitudinal, Social, and Legal Barriers to Integration." Eds. O. Roos et al. Shaping the Future: Community-Based Residential Services and Facilities for Mentally Retarded People. Baltimore: University Park Press, 1980.

Lambton County Planning Department. The Group Homes Study: Final Report. April, 1983.

Marshall, Mary. Zoning Law for Group Homes and Community Residences. Toronto: The Ontario Association for the Mentally Retarded, 1984.

Orr, Jody and Kim Van Louwe. Report on Zoning & Licensing of Residential Facilities in Hamilton-Wentworth. Hamilton: The Social Planning and Research Council of Hamilton and District, October 1981.

Ryan, Carey S. and Ann Coyne. "Effects of Group Homes on Neighbourhood Property Values." Mental Retardation 23, no. 5 (1985): 241 - 245.

Sales, B.D., D.M. Powell and R. Van Duizend. Disabled Persons and the Law: State Legislative Issues. New York: Plenum Press, 1982.

Sigelman, Carol K., C.L. Spanhel and C.D. Lorenzen. "Community Reactions to Deinstitutionalization." Journal of Rehabilitation 45, no. 1 (1979): 52 - 54.

Social Planning Council of Metropolitan Toronto. Group Homes: "But Not in My Neighbourhood!" February, 1979.

The Social Planning and Research Council of Hamilton and District. Zoning By-Laws and the Provision of Residential-Care Facilities. April, 1978.

Turner, James G. "Introduction." Mary Marshall. Zoning Law for Group Homes and Community Residences. Toronto: The Ontario Association for the Mentally Retarded, 1984.

Wolfensberger, Wolf, ed. The Principle of Normalization in Human Services. Toronto: National Institute on Mental Retardation, 1972.

APPENDIX ONE

Dear Key Informant:

Re: An Assessment of Provincial Legislation, Building Regulations and Bylaws as a Barrier to Housing People with Disabilities.

Please indicate the way you feel about the following questions. They are designed to help understand how the prevailing regulations, policies, bylaws and planning requirements that affect the provision of community residential options to persons with disabilities are conceived and implemented.

In asking these questions we recognize that regular compliance to the residential standards as defined in the Building Code is a given.

If you have concerns or questions regarding any aspect of the survey, please contact:

Malcolm J. Holt, MRAIC
Principal Investigator
HSP Humanité Services Planning Ltd.
Phone (403)459-3941

A reply envelope is provided for your use...it does not require a stamp. Please return your completed questionnaire by August 2nd, 1988.

Thank you for your participation.

	Absolutely Yes	Somewhat Yes	Not Sure	Somewhat No	Absolutely No	Insufficient Information
General						
1. Do you think that life in a regular house and community is *desirable* for people with disabilities, given adequate personal supports?	☐	☐	☐	☐	☐	☐
2. Do you think that life in a regular house and community is *beneficial* for people with disabilities, given adequate personal supports?	☐	☐	☐	☐	☐	☐
Special Needs						
3. Should home adaption to meet a disabling condition warrant any special attention in the planning process?	☐	☐	☐	☐	☐	☐
4. Should the provision of housing for people with disabilities be dealt with in a different way, ie. discretionary use category?	☐	☐	☐	☐	☐	☐
5. Should persons with disabilities need special protection from risk?	☐	☐	☐	☐	☐	☐
6. Should housing for persons with disabilities need mandatory *additional* safety features *beyond those of regular housing*?	☐	☐	☐	☐	☐	☐
7. Should person(s) with disabilities be categorized as a "special group" when their residential needs are being considered?	☐	☐	☐	☐	☐	☐

PLEASE TURN OVER...

©1988 HSP Humanité Services Planning Ltd. #203-260 St. Albert Road, St. Albert, Alberta, T8N 5H6 Phone (403) 459 3941

	Absolutely Yes	Somewhat Yes	Not Sure	Somewhat No	Absolutely No	Insufficient Information
Definition of Family						
8. Do you believe that an unrelated group of persons with disabilities can constitute a "family"?	☐	☐	☐	☐	☐	☐
9. Given adequate support services, can persons with disabilities achieve family life, ie. stable enduring relationships and personal growth, etc., with a group of peers in a regular house?	☐	☐	☐	☐	☐	☐
10. Is such a "family" living option *beneficial* in the rehabilitation process?	☐	☐	☐	☐	☐	☐
11. Is such a "family" living option *desirable* in the rehabilitation process?	☐	☐	☐	☐	☐	☐
12. Should an aide (an unrelated personal service provider) be considered as a member of the "family" unit?	☐	☐	☐	☐	☐	☐
Planning Procedures						
13. Should prospective neighbours have the right of refusal on who should be their neighbour?	☐	☐	☐	☐	☐	☐
14. Should it be necessary to seek the approval from (prospective) neighbours of the intention to adapt a residence for use by person(s) with disabilities?	☐	☐	☐	☐	☐	☐
15. Should it be necessary to seek the approval of the Municipal Planning Commission and Development Appeal Board if a house is to become a residence for person(s) with disabilities.	☐	☐	☐	☐	☐	☐

Is there anything else that you would like to add about any of the questions? If so, please use the space below, and additional paper if you require. I welcome your comments.

PC2

©1988 HSP Humanité Services Planning Ltd. #203-260 St. Albert Road, St. Albert, Alberta, T8N 5H6 Phone (403) 459 3941

APPENDIX TWO

Key Informants

Reg Peters, Executive Director
Alberta Association for the Mentally Handicapped

Martin Harris, Executive Director
Alberta Association of Child Care Centre

Nancie Krushelnicki, Managing Director
Alberta Committee of Consumer Groups of Disabled Citizens

James H. Killick, Executive Director
Alberta Rehabilitation Council for the Disabled

Colleen Robinson, Executive Director
Association for the Hearing Handicapped

Ron LaJeunesse, Executive Director
Canadian Mental Health Association

Father Williams Irwin, President
Catholic Social Services

Catherine Robertson
Community Relations Coordinator
Cerebral Palsy Association in Alberta

Raylene Manolescu, Project Supervisor
Community Enrichment Project

Executive Director
Edmonton Association for the
Mentally Handicapped

Coordinator
Gateway Association for the
Mentally Handicapped

G. P. Hennig, President
Good Samaritan Society

Tom Wildgoose, Director
Good Samaritan Rehabilitation
Residential Services

Erla Whetham, Executive Director
Handicapped Housing Society of Alberta

Cathryn Bradshaw, Director
L'Arche Association of Edmonton

Mrs. Annette Bannick, President
Northern Alberta Brain Injury Interest Society

Bob Romito, Executive Director
Resources for the Dependent Handicapped

Paul Kohl
Office of the Public Guardian - Northern Alberta Regional Office

Laurie Hoosier, Supervisor
Services for the Handicapped

Paula McLean, Executive Director
Skills Training and Support
Services Association

Jill Nichols, President
Edson Association for
Developmentally Handicapped

Joe White, President
Hinton Special Needs Association

Executive Director
Drayton Valley Association for the
Developmentally Handicapped

Sandra Evans, President
Parkland Association for the Handicapped

Walter Mulder, Executive Director
Rehoboth

Bonnie Chappelle, Executive Director
St. Albert Association for the Handicapped

Edwin Riediger, Managing Director
Robin Hood Association for the Handicapped

Barry Buchnell, Executive Director
Grande Prairie and District Association for the Mentally Handicapped

Shirley Blew
Peace District Society for the Physically
Handicapped

Mildred Alberts, President
Athabasca and District Association for the
Mentally Handicapped

The Salvation Army Vocational/
Independent Living Skills Program

Elaine Saunders
Director of Residential Services

Jonas Fornwald, Executive Director
Calgary Association for the
Mentally Handicapped

Noel McGarry
Southern Alberta Community Living Society

Mr. G. Cornish
City Commissioner, Calgary

Mr. C. Armstrong
City Manager, City Hall

Michael Day
City Commissioner

Don Corrigan
Manager, City of St. Albert

R. L. Ardiel
City Commissioner, City of Medicine Hat

R. M. Bartlett
City Manager, City of Lethbridge

Robert Byron
City Commissioner, City of Fort McMurray

Deryl Kloster
City Manager, City of Airdrie

Donald Saunders
City Manager, City of Camrose

Kelly Daniels
City Manager, City of Grande Prairie

Gary Swinamer
City Manager, City of Spruce Grove

J. Van Doesburg,
City Manager, City of Wetaskiwin

Earl Wedel
City Manager, City of Leduc

Glenn Pitman
City Commissioner, City of Fort Saskatchewan

Roger Brekko
City Commissioner, City of Lloydminster

J. N. Brodie
Manager, Brooks

J. W. D. McLeod
Manager, Peace River

Lillian Pehowich
Administrator, Vegreville

John West
Manager, Ponoka

D. H. Gilliland
Manager, Stettler

Doug Lagore
Manager, Edson

J. A. Barrie
Manager, Hinton

Robert Jenkins
Manager, Lacombe

John Maddison
Manager, Taber

Colin Dean
Manager, High River

Raymond Romanetz
Manager, Drumheller

Dale Mather
Manager, Innisfail

A.M. Gibeault
Manager, Morinville

W. L. Winger
Manager, Whitecourt

John Cosgrove
Manager, Stony Plain

Keith Bevans
Administrator, Cardston

Monte Christensen
Manager, Pincher Creek

Richard Scotnicki
Commissioner, Okotoks

Larry Flexhaug
Administrator, Claresholm

Bill Newell
Manager, Bonnyville

Wayne Horner
Secretary/Treasurer, St. Paul

Raymond Coad
Manager, Grand Centre

Duane Dukart
Administrator, Grande Cache

Mervyn Ray
Administrator, Westlock

Don Howden
Manager, Fairview

John Jarvie
Administrator, High Prairie

Bernie Kreiner
Manager, Slave Lake

Robert Watt
Vermilion

Ernest Bouchard
Administrator, Wainright

Richard Binnendyk
Administrator, Hanna

Ron Hilton
Manager, Olds

E. Michael Storey
Administrator, Didsbury

Mr. Plamping
Manager, Strathmore

Earl McIlroy
Manager, Coaldale

H. W. Beach
Manager, Redcliff

Louis Damphousse
Manager, Ft. Macleod

Manny Deol
Manager, Drayton Valley

Patrick Lyster
Manager, Rocky Mountain House

Martin Schmitke
Manager, Cochrane

Joan McCracken, Manager
Alberta Mortgage and Housing Corporation, Edmonton Branch

Siona Monaghan, Director
Alberta Municipal Affairs - Housing Division

Executive Director
Edmonton Metropolitan Regional Planning Commission

Peter Faid, Executive Director
Edmonton Social Planning Council

APPENDIX THREE

Edmonton PLANNING AND BUILDING

2ND FLOOR
THE BOARDWALK
10310 102 AVENUE N.W.
EDMONTON ALBERTA
T5J 2Z6

August 5, 1988

Mr. Malcolm J. Holt
Humanite Services Planning Ltd.
203, 260 - St. Albert Road
St. Albert, Alberta
T8N 5H6

Dear Mr. Holt:

We are returning the questionnaire you sent to Mr. C. Armstrong, City Manager, City of Edmonton.

The City of Edmonton supports a number of services and programs intended to facilitate integration of people with disabilities into our community. The services and programs range from transportation for the disabled (D.A.T.S.) through sidewalk and access point designs suitable for wheelchairs to renovation programs which fund adaption of housing to meet the needs of people with disabilities. The Alberta Building Code, administered by the Planning and Building Department has specific requirements on the provision of barrier free access, workrooms for the disabled and other items.

Nonetheless, in accordance with our conversation on August 2, regarding the intent of your research project we have interpreted your questionnaire within the context Land Use policies and bylaws and application of building regulations. Within this context we found some of your questions to be vague. To clarify our perspective on your questions we have enclosed some excerpts from the Edmonton Land Use Bylaw. The Bylaw accommodates a variety of living arrangements suitable for groups of people with disabilities within the operative and interpretive definitions of households, limited group homes and group home.

The identification of limited group homes and group homes as specific land use categories may constitute special treatment within the context of questions 3 through 7 of your questionnaire. Nevertheless, the intent of the bylaw is to accommodate the special needs of people with disabilities while maintaining conformance with site development and other land use regulations. Limited group homes, for example, have essentially the same status as households within the terms of the Bylaw since they are identified as permitted uses in all residential land use districts. Group homes are subject to additional but straightforward land use regulations intended to maintain compatibility within land use districts.

We believe that most structural adaptation required to meet the needs of people with disabilities can be achieved without significant conflict with existing building regulations. To verify this we contacted the Handicapped Housing Society of Alberta. The society representative reported that building codes present no unreasonable obstacles. Structural modification proposals

which constitute minor variance within the terms of the Planning Act are handled through the regular Development Appeal process.

If you have any questions regarding our response to your questionnaire please contact Gord Jackson at 428-5450.

Yours sincerely,

Bruce Duncan
GENERAL MANAGER
PLANNING AND BUILDING DEPARTMENT

BD/GJ/ejg

Enclosure